



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/490,795	01/24/2000	Gary J. Verdun	M-8066 US	7652

23640 7590 09/24/2003

BAKER BOTTS, LLP  
910 LOUISIANA  
HOUSTON, TX 77002-4995

EXAMINER

CONNOLLY, MARK A

ART UNIT	PAPER NUMBER
2185	

DATE MAILED: 09/24/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/490,795	VERDUN, GARY J.
Examiner	Art Unit	
Mark Connolly	2185	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 July 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-3,5-14 and 16-24 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-3, 5-14 and 16-24 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

### **DETAILED ACTION**

1. Claims 1-3, 5-14 and 16-24 are presented for examination.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.
3. Claims 1-3, 5-14 and 16-24 are rejected under 35 U.S.C. 103 as being unpatentable over Barrus US Pat No 5958058 in view of Fanning et al [Fanning] US Pat No 6330639.
4. The rejections are respectfully maintained and incorporated by reference as set forth in the last office action.
5. Applicant's arguments filed 7/8/03 have been fully considered but are not persuasive.
6. In the remarks, applicants argued in substance that both Barrus and Fanning do not include the ability for the user to specify a power performance level for memory as required in the limitations of amended claims 1 and 12.
7. As stated in the previous office action, Barrus teaches adjusting performance levels of computer hardware devices in response to a user input [col. 1 lines 40-51, col. 3 lines 11-22 and col. 4 lines 49-61]. In summary, a user specifies the performance levels of devices in order to adjust the power consumption of those devices so that power consumption of a system can be managed. Barrus though does not explicitly teach that a user can specify the power/performance level for memory.

Fanning teaches arranging memory into at least one memory pooling profile and that by arranging the memory devices into profiles, power consumption levels can be controlled [col. 2 lines 60-64, col. 8 lines 44-50 and 55-62]. It was argued that it would have been obvious to one of ordinary skill in the art to modify Barrus by allowing the user to specify at least one memory

pooling profile as taught by Fanning because it provides further means to manage power in a system. It should easily be seen that in the Barrus-Fanning system does teach the ability for the user to specify a power performance level for memory.

It should be apparent that in the Barrus-Fanning system that the memory devices would be pooled in response to either the user selecting a power performance level which selects a pooling profile or by specifying at least one application program to be run which would select a pooling profile as is required in claims 1 and 12 respectfully.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear if the user input recalling the at least one memory pooling profile and the user input specifying the at least one power/performance level are different inputs or the same. For examining purposes, it is interpreted that the two user inputs are the same input and that memory devices are pooled in response to the single user input.

10. Referring to claim 1, Barrus teaches the invention substantially including adjusting the performance levels of computer hardware devices in response to a user input [col.1 lines 40-51]. Barrus does not though expressly teach that these devices could comprise memory devices arranged into at least one memory pooling profile.

Fanning teaches arranging memory into at least one memory pooling profile [col. 8 lines 44-50 and 55-62]. Although Barrus does not explicitly teach pooling memory devices in response to a user input, it is suggested through the teaching of “a power management utility program that allows the user to manually adjust and set the performance levels of various hardware devices” [col. 1 lines 40-50]. The final goal of this power management utility is ultimately to allow the user to adjust the hardware settings to coincide with the desired power management scheme desired by the user. It would have been obvious to one of ordinary skill in the art to modify Barrus by allowing the user to recall at least one memory pooling profile because Fanning teaches that it would allow the user to further manage the memory devices which would have an effect on the power management [col. 2 lines 60-64].

In addition, Barrus further teaches accepting the user input specifying at least one power/performance level [col. 3 lines 23-28].

11. Referring to claim 12, Barrus teaches the invention substantially including adjusting the performance levels of computer hardware devices in response to a user input [col. 1 lines 40-51]. Barrus does not though expressly teach that these devices could comprise memory devices arranged into at least one memory pooling profile.

Fanning teaches arranging memory into at least one memory pooling profile [col. 8 lines 44-50 and 55-62]. Although Barrus does not explicitly teach pooling memory devices in response to a user input, it is suggested through the teaching of “a power management utility program that allows the user to manually adjust and set the performance levels of various hardware devices” [col. 1 lines 40-50]. The final goal of this power management utility is ultimately to allow the user to adjust the hardware settings to coincide with the desired power

Art Unit: 2185

management scheme desired by the user. It would have been obvious to one of ordinary skill in the art to modify Barrus by allowing the user to recall at least one memory pooling profile because Fanning teaches that it would allow the user to further manage the memory devices which would have an effect on the power management [col. 2 lines 60-64].

In addition, Barrus further teaches accepting the user input specifying at least one application program to be run [col. 3 lines 11-22 and col. 4 lines 49-61].

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Connolly whose telephone number is (703) 305-7849. The examiner can normally be reached on M-F 8AM-5PM (except every first Friday).

Art Unit: 2185

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C Lee can be reached on (703) 305-9717. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Mark Connolly  
Examiner  
Art Unit 2185

mc  
September 19, 2003



THOMAS LEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100